



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

**TESTIMONY PRESENTED BEFORE THE GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE**

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House Bill 6662 An Act Concerning Certain Revisions to the Citizens' Election Program

Good morning, Chairperson Slossberg, Chairman Spallone, Ranking Members Senator McLachlan and Representative Hetherington, and distinguished Committee members. I am Beth Rotman, Director of the State of Connecticut's Citizens' Election Program. Thank you for this opportunity to testify on proposed recommendations to strengthen and improve the state's landmark public financing program – the Citizens' Election Program. It is a pleasure to appear before this distinguished Committee.

Before joining the Commission, I was part of the team administering the New York City Campaign Finance Program. The New York City Program is a nationally recognized municipal public financing program which provides public matching funds to candidates for elective office in the City of New York. I am pleased to have been able to bring my experience administering and enforcing a successful public financing program from the New York City Campaign Finance Board to the State of Connecticut and the historic first run of the Citizens' Election Program.

As you know, in 2005, the Governor and the General Assembly responded decisively to scandal and public outrage by creating an innovative system of public financing. The Citizens' Election Program ("Program") represents the broadest, most comprehensive, and most successful effort to remove special interest money from the political system undertaken by any state in our nation's history. The voluntary Program lessens the influence of special interest money in state campaigns, amplifies the voices of individual Connecticut residents, and enables more Connecticut citizens to consider seeking elective office in the State of Connecticut. The Program also provides the public with meaningful and timely disclosure of campaign finances.

In 2008, Connecticut passed an extremely important milestone—the first run of the Program for the 2008 General Assembly elections. We saw an unprecedented high level of participation in the Program with more than three-quarters of General Assembly candidates participating. When compared to the first year statistics of other public financing programs, that number is astounding. For example, in their first election seasons, Arizona and Maine, the only two states with comparable public financing programs, garnered participation rates of one-quarter and one-third of eligible candidates, respectively. By all accounts the Program was a great success. As citizens of Connecticut, we should *all* take great pride in this tremendous accomplishment.

At this time, the General Assembly must keep Connecticut at the vanguard of reform by ensuring that the Commission and the Citizens' Election Fund continue to have necessary resources to administer the Program and safeguard the public fisc. Also, the Program cannot remain successful unless it adapts to address any changing circumstances and weaknesses uncovered.

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As you know, the Commission held two days of post-election hearings to help the Commission evaluate the Program's first run. We heard testimony from a number of witnesses, including many participating candidates, treasurers and representatives of the good government community. By all accounts, our first run was a historic accomplishment for the State of Connecticut. It has been called— an unqualified success, the achievement of the impossible, and the most important development in Connecticut politics in the past thirty years.

Our experience and the related testimony also revealed, however, that a few Program components required additional Commission review. The public hearing testimony as well as other participating candidate and treasurer feedback informed the Commission's legislative recommendations. Many of the Commission's legislative proposals reflect the desire to simplify and streamline Program participation and compliance with Program requirements.

Thank you for considering the matters raised by this testimony as this Committee evaluates possible amendments to the Program. I look forward to continued discussion and cooperation as we move forward to the 2010 elections.

1. Modify and Streamline Reporting Requirements

Modify "90 percent" Supplemental Reporting

Under the current system, candidate committees in primaries or elections where there is at least one participating candidate are required to file supplemental financial disclosure statements with the Commission when they have raised funds or made expenditures which in the aggregate exceed 90 percent of the participant's applicable expenditure limit. Once this 90 percent trigger is hit, all candidates in the race are responsible for filing periodic supplemental disclosure statements. These statements are due either bi-weekly or weekly depending on the when during the election cycle the 90 percent trigger is hit. The ultimate goal of the 90 percent supplemental statements is to provide candidates and the public with information about the receipts and expenditures of candidates as close as possible to the election, and as candidates approach Program expenditure limits. Further, such reporting informs participating candidates of whether their opponents are close to exceeding the Program's expenditure limit and thus, are close to triggering a supplemental grant to that participating candidate. These filings also apprise the Commission of those candidates who are close to triggering an excess expenditure supplemental grant. Additionally, these statements inform candidates of any war chests their nonparticipating opponents have accumulated so that they may plan for last minute expenditures.

During the 2008 election cycle, treasurers of participating candidates found the uncertainty surrounding the timing of the 90 percent supplemental statements challenging. Because the requirement to file the initial 90% statement is triggered by funds raised or expenditures incurred by a candidate committee, the initial filing deadline for the first supplemental statement was different for every race. In addition, meeting this filing deadline was entirely dependent on the candidate committee keeping up to the day records of receipts and expenditures. Finally, it is impossible under the current 90 percent system for candidate committees to anticipate when an opponent might file the initial statement thus triggering supplemental reporting for candidates in the race. Because of this considerable uncertainty, several candidate committees did not complete all of the requisite filings and the system did not always provide the intended high level of disclosure just prior to the election. Furthermore, there was confusion regarding the filing of 90 percent supplemental statements given the overlap of the deadlines for these statements with the deadlines for regular statements due seven days preceding the election. These concerns were expressed by candidates and treasurers during the election cycle and the Commission's post-election hearings. The Commission agrees with participating campaigns that this is an area where the Program's first run revealed an area of weakness that could and should be improved.

The Commission's proposal replaces the "90 percent" supplemental reporting structure with scheduled weekly reporting deadlines close to primary or election day for candidate committees in races where there is at least one participating candidate. The modified schedule (1) requires weekly disclosure starting the Thursday of the calendar week after the last quarterly filing prior to the primary or election (July and October) up until one week prior to the primary or election; and (2) eliminates the "seven day preceding the election" report required pursuant to section 9-608 for the candidates in these campaigns. These changes eliminate the overlapping reporting requirements and the uncertainty caused by the current "90 percent" supplemental reporting structure while providing campaigns with a finite set of reporting deadlines. These changes are particularly important to ensure transparency of expenditures close to the election while creating certainty of, and thus increased compliance with, financial reporting deadlines. It's important to make compliance with the Program easier for candidates and their treasurers while ensuring complete financial disclosure and transparency.

Provide Consistency for Disclosure Statement Filings (including filing deadlines, filing mechanisms, and covered reporting periods)

The current statutes lack consistency and clarity as to the timing of certain filing deadlines, the mechanisms for filing and the reporting periods covered by certain financial disclosure reports. The Commission's proposal provides consistent requirements and deadlines for these campaign finance reports. This will help lend clarity to the reporting process which will, in turn, increase compliance with the Program and help ensure timely and complete financial disclosure.

Mandate Electronic Filing (as discussed in Commission testimony about Raised Bill #1107)

Mandating electronic filing is crucial to the Program's goal of providing the public with the utmost transparency, and accurate and prompt disclosure of campaign finances. Electronic filing is required in most major public financing jurisdictions, and is particularly important to contemporaneous disclosure of campaign expenditures of public dollars. Accordingly, the statute should be amended to require electronic filing, as discussed in Commission testimony about Raised Bill #1007- An Act Concerning Electronic Filing of Campaign Reports.

2. Prohibit Qualifying Contributions from Minors Under the Age of 12

As it stands now, children under the age of eighteen are permitted to contribute up to thirty dollars to candidates for public office. This means that participating candidates can accept qualifying contributions from children under the age of eighteen in order to meet the thresholds required to qualify for a public grant. Because those participating candidates whose applications are approved will receive a substantial amount of public money to fund their campaigns there is a heightened need for the Commission to verify the donative intent of contributors. Such donative intent is difficult to investigate and verify if a contributor is young. In addition, candidates and treasurers have asked for a bright line in evaluating whether a child is old enough to develop the donative intent to make a qualifying contribution. The Commission's proposal provides such a bright line by explicitly providing that contributions from minors under the age of 12 shall not be permissible as qualifying contributions.

3. Authorize "Matching" Grant for Participating Campaigns Facing Positive Independent Expenditures

The current statutory scheme requires reporting of independent expenditures "*intended to promote the success or defeat of a candidate.*" However, the statute presently only authorizes the Commission to grant supplemental funds if "an independent expenditure has been made or obligated to be made, *with the intent to promote the defeat of a participating candidate.*" Practically speaking, an independent expenditure that promotes one candidate in a race in effect suggests the defeat of other candidates in the race. At the Commission's post-election hearings, numerous individuals, including participating candidates, committee workers, and members of the good government community voiced concern about this feature of the current law.

The Commission's proposal amends the independent expenditure supplemental grant provision to authorize a supplemental grant if an independent expenditure has been made or obligated to be made, with the intent to promote the defeat of a participating candidate *or the success of a participating candidate's opponent.* This will act to protect participating candidates whose opponents have benefited from substantial, positive independent expenditures that do not currently trigger supplemental grant funds because they do not "promote the defeat" of the participating candidate. This protection is necessary to continue to incentivize participation in the voluntary Program.

4. Allow Ten Business Days for Review of Grant Applications for Statewide Offices

Under the current system, the Commission has four business days to review and approve or disprove applications for public grants. This four day turnaround period is generally sufficient for legislative offices, and in the 2008 elections the Commission successfully reviewed over 250 applications for public grants within these tight timing constraints. Through the Commission's successful review of these applications, it has become apparent, however, that the four day turnaround will not be sufficient for applications for statewide candidates.

As you know, participating candidates seeking statewide office must raise a substantially greater amount of contributions to qualify for public funds and must in turn submit a substantially greater amount of backup documentation to the Commission for review. Accordingly, the Commission's proposal provides ten business days to issue a Commission determination about a grant application submitted by a candidate for statewide office. It is essential that the Commission has this additional time to conduct comprehensive reviews of applications for the substantial statewide grants so the Commission may continue to safeguard the Public Fisc.

5. Add Organization Expenditure Limits and Amend Reporting Requirements for Statewide Offices

Although the statute currently limits the amount of organization expenditures that party committees, legislative leadership committees and legislative caucus committees can make benefiting candidates for General Assembly, the law places no limits on the amount of organization expenditures that can be made by these committees to benefit candidates for Statewide office. Accordingly, the Commission's proposal includes placing limits on state central and town committees making organization expenditures for the benefit of participating candidates seeking Statewide offices. Moreover, the Commission proposes that the limits for town committees be less than the limits for state central committees, given the organization of and differences between state central committees (which play a larger role in statewide party organization and statewide elections), and town committees (which focus more on local candidates in their towns or districts).

In addition, while the statute currently requires those committees making organization expenditures benefiting a participating candidate for state senator or state representative to send a notice of the amount and purpose of that organization expenditure to the benefiting candidate, it does not require similarly require committees making organization expenditures benefiting participating Statewide candidates to send the candidate such a notice. See General Statutes § 9-608 (c) (5).

Thus, the correlating disclosure provisions require amendment to mandate disclosure of organization expenditures by participating candidates for Statewide office. This change must be made to enable tracking of the proposed organization expenditure limits, and to ensure transparency of organization expenditures made to benefit Statewide candidates.

6. Require Statewide Candidates to Submit Back-up Documentation with Periodic Disclosure Statements

Under the current system, participating candidates in both General Assembly and Statewide races are required to submit back-up documentation supporting their qualifying contributions with their grant applications. Given the large number of required qualifying contributions for participating candidates for Statewide offices – and the resultant large amount of back-up documentation that will be submitted to support such qualifying contributions – the Statewide candidates should be required to provide this documentation to the Commission on or about the time they file the periodic financial disclosure statements in which said qualifying contributions are reported. The Commission's proposal provides for such submissions which will ensure thorough and timely review of such qualifying contributions. This will, in turn, facilitate Commission staff's ability to assist Statewide candidates with any issues with their qualifying contributions and accompanying documentation and will streamline the application process for participating candidates.

7. Clarify that a Participating Candidate Facing an Opponent on the Statutory Deadline for Nomination Shall be Deemed Opposed for the Election Campaign

As it stands now, if a participating candidate is "opposed" by a major party candidate he or she is eligible to apply for a full grant amount in that race. If a participating candidate is "unopposed" he or she is only eligible for one-third of the full grant amount. In the 2008 General Assembly election cycle certain participating candidates were met with uncertainty as to the implications for their grants in instances where the participating candidate had a nominated opponent who withdrew subsequent to the deadline for nomination and was not immediately replaced. As one candidate described in testimony at the Commission's post-election hearings, in some instances, such nominated opponents are not replaced until close to the deadline to fill a vacancy (which is 21 days prior to the election). This generally leads to periods of uncertainty for participating candidates who may be uncertain about how much may be spent during the election. Such uncertainty could de-incentivize participation in the Program. Indeed, several participating candidates informed Commission staff that they did not know whether they would participate in the Program due to the uncertainty created by such issues.

Accordingly, the Commission's proposal sets a firm deadline for determining opposition status. Under this proposal, a participating candidate that faces an opponent on the statutory deadline for nomination shall be deemed "opposed" for the entire election campaign and will be eligible to apply for and receive a full grant according to this designation. This will create certainty for participating candidates regarding both their grant amounts and expenditure limits for the duration of the election regardless of the shifting ballot status of their

opposition -- something participating campaigns have no control over. This is important for incentivizing participation in the voluntary Program and protecting the candidates who elect to join the Program.

8. Create Exemption for "1B filers" Who Certify They Will Spend Less than \$1,000

The statute currently requires all General Assembly and Statewide candidates to either opt in or opt out of the Program by filing an affidavit of intent to abide (SEEC Form CEP 10) or filing an affidavit of intent not to abide (SEEC Form CEP 11). Candidates who certify to the Commission that they intend to raise and spend less than \$1,000 pursuant to section 9-608 (b) ("1B filers") should not be required to file either a SEEC CEP Form 10 or a SEEC CEP Form 11. They have effectively already certified their intent not to participate in the Program by filing a statement pursuant to section 9-608 (b). As it stands now, however, the law imposes an extra administrative burden on such candidates that serves no useful purpose. The Commission's proposal creates an exemption for such 1B filers and treats them as nonparticipating candidates unless or until they "change course" and file a SEEC CEP Form 10 declaring their intent to abide by the expenditure limits and participate in the Program.

9. Briefly Extend Review Period for General Election Applications Submitted During Primary Grant Determination Deadline Week

Under the current system, the Commission must also review general election grant applications during the deadline period for primary grant application submission and Commission reviews. For the 2008 election cycle, the Commission faced a large number of primary grant applications on the final primary grant application deadline. In numerous instances, the Commission had to work closely with multiple primary campaigns to help candidates make any necessary "fixes" to cure problems in their applications, in an extremely short time frame, given the statutory deadline on release of primary grant monies.

To ensure timely and complete review of such general election grant applications submitted during the final deadline week for primary grant applications, the Commission requires flexibility as the deadline for reviewing and approving primary election grant applications approaches. This is especially critical for the 2010 cycle which includes both General Assembly and Statewide candidates, because the review of Statewide candidates' grant applications will be much more time-consuming, since Statewide candidates must raise substantially more qualifying contributions than General Assembly candidates must raise.

The Commission's proposal allows candidates to submit their general election grant applications during the final review and approval period for primary election grant applications, but extends the Commission's time to review such general election grant applications until after the primary election grants are reviewed. This change will help safeguard public funds by ensuring that the Commission has adequate time to review all applications for public dollars.

10. Simplify Process for Documenting Qualifying Contributions from Individuals with Joint Checking Accounts

Currently, the statute requires the Commission to attribute contributions drawn on a joint checking account to the individual who signed the check. For instance, under the current law, if a husband and wife residing in a candidate's district provide a single check for \$100 to a participating candidate, and only the wife signs the check, then the entire qualifying contribution would be attributed to the wife (even if the husband and wife each completed and signed a qualifying contribution certification form indicating that each contributed \$50). Under current law, the candidate would receive credit for only one "in-district" contribution (the wife) rather than two (both the husband and wife).

The Commission's proposal crafts an exception to the current law on contributions made via joint checking accounts, so that joint checking account holders can provide a statement or certification with their contribution that outlines the way that they would like the contribution allocated.

* * *

These reforms to our state's landmark Campaign Finance Program should help ensure that the Program can continue to amplify the voice of individual contributors and best serve all campaigns while providing responsible stewardship of the Public Fisc.

Proposed Amendments to House Bill 6662

Change effective dates for Section 1 and Section 2 as follows: Strike ("Effective January 1, 2010, and applicable to elections held on or after said date") and insert the following: (Effective January 1, 2010, and applicable to primaries and elections held on or after said date")

In line 40, strike "state election" and after "candidate committee in a" insert the following: "primary"

In line 227, strike "a participating" and after "for the benefit of" insert the following: "any"

In line 228, after the phrase "for the office of", insert the following: "Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of the State,"

In line 234, after the phrase "for the office of", insert the following: "Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of the State,"

In line 497, strike "at" and after "contributions" insert the following: "on or about"

In line 1059, strike "party" and after "no" insert the following: "state central"

In line 1073, strike "party" and after "no" insert the following: "state central"

After line 1089 and before line 1090, insert the following: "(e) Notwithstanding any provision of the general statutes, no town committee, as defined in section 9-601, shall make an organization expenditure, as defined in subdivision (25) of section 9-601, for the benefit of a participating candidate or the candidate committee of a participating candidate in the Citizens' Election Program for the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer or Secretary of the State in an amount that exceeds thirteen thousand five hundred dollars for the general election campaign."

In line 1090, strike "(e)" and insert "(f)" before the word "Notwithstanding"

In line 1098, strike "(f)" and insert "(g)" before the word "Notwithstanding"

In line 1106, strike "(g)" and insert "(h)" before the word "Notwithstanding"

In line 1114, strike "(h)" and insert "(i)" before the word "Notwithstanding"

In line 1123, strike "(i)" and insert "(j)" before the word "Notwithstanding"